

REMARKS

The Office Action dated February 26, 2007 has been received and carefully studied.

An Information Disclosure Statement was filed on January 14, 2004 (which includes the references mentioned in the specification). The Image File Wrapper available using the Patent Office PAIR system indicates that the IDS is in the file. However, the initialed form PTO-1449 indicating the Examiner's consideration of the references cited has not been received by the Applicant. It is respectfully requested that the Examiner consider the references (if he has not done so already) and return the initialed form to the Applicants.

The Examiner rejects claims 1-5 and 7-12 under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious over Nachtman et al. '373, '830, '500, or '033, Chao et al. '174, Jezensky et al. (WO 9964368 abstract), Colegrove (EP 537999 abstract), or Trieu (CA 218047 abstract).

By the accompanying amendment, claim 1 has been amended to recite that the water-dispersible polymer comprises a member selected from the group consisting of water-based paint and paint sludge. Claims 4-5 have been cancelled, and claim 6 has been amended to recite waste water-based paint.

Applicant notes that none of the Nachtman et al. references disclose water-dispersible polymers; they

disclose only water soluble polymers. Indeed, the water soluble polymers disclosed in the Nachtman references are selected to provide dust control, increase foam height integrity, increase water resistance, increase adhesion, provide structural integrity, allow "wet" setting, increase resistance to cracking, and to help the sprayed composition to bridge voids. They are not provided to increase the bonding as are the water-dispersible polymers of the present invention.

None of the remaining cited references discloses or suggests about 0.1-5 weight percent water-dispersible polymer selected from water-based paint and paint sludge.

The Examiner rejects claims 1-12 under 35 U.S.C. §112, second paragraph, as failing to set forth the subject matter which applicant regards as his invention.

Regarding claim 1, the Examiner states that "cementitious material" is unclear. This rejection is respectfully traversed. The term "cementitious" is a term of art well-known to those skilled in the art. Furthermore, it is defined in the specification in accordance with ASTM C11. Applicant also notes that a search of the term "cementitious" in issued claims of U.S. patents using the USPTO database results in over 1900 hits, indicating that this term is commonly used and is well-known and not indefinite.

Regarding claims 3 and 7, by the accompanying amendment, claim 7 has been amended by deleting coal fly ash.

Regarding claim 10, cellulose is not a water-dispersible polymer, it is a water soluble polymer.

Claims 13-29 have been cancelled without prejudice.

Reconsideration and allowance are respectfully requested.

Respectfully submitted,


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